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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,439	04/11/2006	Jun Asakura	40213	1889
53054 7590 06/30/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER BATISTA, MARCOS				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patdocket@peame.com
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Office Action Summary

Application No.

10/575,439

Applicant(s)

ASAKURA, JUN

Examiner

MARCOS BATISTA

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CD/CIS)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohta (US 20040235539 A1), hereafter "Ohta," in view of Mizuta et al. (US 20030211874 A1), hereafter "Mizuta."

3. Consider claim 1, Ohta discloses a voice input section (see Fig 1 #119, [0028]). Ohta also teaches a voice output section (see Fig 1 #125, [0028]). Ohta further teaches a communication section for communicating a voice signal input from the voice input section to an intended party (see abstract, Fig 1, [0029]). Ohta also teaches a positional relation sensing unit which senses the relative position relation between the first cabinet and the second cabinet (see abstract, Fig 2 #159, [0009], [0028]). Ohta further teaches and a voice control unit which inhibits signal transmission from the voice input section to the voice output section and signal transmission from the voice input section to the communication section for muting if the first and second cabinets are in a transition state from an open state to a closed state or the closed state to the open state based on output of the positional relation sensing unit (see Fig 6 #301, [0048], [0049], [0052]).

Ohta teaches claim 1 above, but does not particular refer to a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet. Mizuta teaches a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet (see Fig 2 (a), Fig 4 (a), abstract, [0006]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Ohta and have it include a mobile terminal apparatus which can be opened and closed as a first cabinet slides and moves relative to a second cabinet, as taught by Mizuta. The motivation would have been in order to provide portability and functionality conveniences to the user (see Fig 2 (a), Fig 4 (a), abstract [0006]).

Consider claim 2, Ohta as modified by Mizuta teaches claim 1. Ohta also teaches voice control unit continues the muting for predetermined time period from the point in time when the first and second cabinets enter the open state or the closed state from the transition state, and wherein the voice control unit releases the muting after the expiration of the predetermined time period (see Fig 7 #S705, [0051]).

Consider claim 3, Ohta as modified by Mizuta teaches claim 1 above, but does not particular refer to the positional relation sensing unit comprises: a magnetic material

provided at least in one of the first cabinet and the second cabinet or a magnetic sensing element, provided in the cabinet opposed to the cabinet in which the magnetic material is disposed, for sensing a magnetic field of the magnetic material cabinet. Mizuta discloses a magnetic material sensor provided at least in one of the first cabinet and the second cabinet (see Fig 11 #210, #106, [0031], [0036]). Mizuta also discloses a magnetic sensing element, provided in the cabinet opposed to the cabinet in which the magnetic material is disposed, for sensing a magnetic field of the magnetic material cabinet (see Fig 11 #210, #106, [0031], [0036]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the invention of Ohta and have it include a magnetic material provided at least in one of the first cabinet and the second cabinet and a magnetic sensing element, provided in the cabinet opposed to the cabinet in which the magnetic material is disposed, for sensing a magnetic field of the magnetic material cabinet, as taught by Mizuta. The motivation would have been in order to provide a positioning detection mechanism with respect to the opening or closing of the radio terminal (see Fig 11 #210, #106, [0031], [0036]).

Consider claim 4, Ohta as modified by Mizuta teaches claim 1. Ohta also teaches the positional relation sensing unit comprises a switch which is provided at least in one of the first cabinet and the second cabinet and is pressed as the opposed cabinet makes a slide move (see Fig 6 #301, Fig 7 #S703, [0048], [0049] – where Ohta

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teaches a controller that switches the muting section as the radio terminal opens/closes).

Response to Arguments

4. Applicant's arguments filed on 05/12/2008 have been fully considered but they are not persuasive.

After carefully revising the office action pertinent to the present response and remarks, 2 main points have been identified:

1) the Applicant states that Ohta does not disclose the limitation of "a voice control unit which inhibits signal transmission from the voice input section to the voice output section and signal transmission from the voice input section to the communication section for muting if the first and second cabinets are in a transition state from an open state to a closed state or the closed state to the open state based on output of the positional relation sensing unit." In contrast, the muting section 301 of Ohta only operates while the folding type radio terminal 200 of Ohta is being opened and does not operate while the radio terminal 200 is being closed (refer to page 1 lines 14-18 and page 2 lines 1-3 of the Applicant's Remark);

2) the Applicant states that the limitation of "a predetermined time period from the point in time when the first and second cabinets enter the open state or the closed state from the transition state" is not disclosed by Ohta's shutting down of the motor after a

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predetermined time (refer to page 2 lines 19-20 and page 3 lines 1-2 of the Applicant's Remark).

Regarding point 1), Otha clearly teaches a voice control unit which inhibits signal transmission from the voice input section to the voice output section and signal transmission from the voice input section to the communication section for muting if the first and second cabinets are in a transition state from closed state to the open state based on output of the positional relation sensing unit (see fig. 6 pars 0048-52, where Otha discusses muting the voice input to prevent the sound of the motor from reaching the caller while the phone is being opened. The alternative form of the claim is being used since the claim reads "open state to a closed state **or** the closed state to the open state").

Regarding point 2), Otha clearly teaches a predetermined time period from the point in time when the first and second cabinets enter the open state or the closed state from the transition state (see fig. 7 pars 0051, where Otha discusses the controller detecting whether the top lid has been fully opened or a predetermined time has been measured to stop the motor).

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Therefore, the argued features are written such that they read upon the cited reference(s) and are not persuasive.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MARCOS BATISTA** whose telephone number is (571)270-5209. The examiner can normally be reached on Monday - Friday 7:30am - 5:00pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Derrick Ferris** can be reached on (571)272-3123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marcos Batista

/M. B./

06/20/2008

/LUN-YI LAO/

Supervisory Patent Examiner, Art Unit 4134